



Substitute House Bill No. 6688

Public Act No. 05-209

***AN ACT IMPLEMENTING CERTAIN GOVERNOR'S BUDGET
RECOMMENDATIONS WITH RESPECT TO SOCIAL SERVICES
PROGRAMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17b-261d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

The Commissioner of Social Services [shall] may design and implement a care enhancement and disease management initiative, [which] if such initiative is determined to be cost effective by the commissioner. The initiative shall provide for an integrated and systematic approach for managing the health care needs of high cost Medicaid recipients. Notwithstanding any provision of the general statutes, the commissioner may contract with an entity to effectuate the purposes of this section, provided such entity has an established and demonstrated capability in the design and implementation of a disease management initiative. [The] If implemented, the commissioner shall report annually on the status of the care enhancement and disease management initiative to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and human services.

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Sec. 2. (NEW) (*Effective July 1, 2005*) The Commissioner of Social Services shall establish prior authorization procedures under the Medicaid program for admissions and lengths of stay in chronic disease hospitals. The Commissioner of Social Services may contract with an entity for administration of any aspect of such prior authorization or may expand the scope of an existing contract with an entity that performs utilization review services on behalf of the Department of Social Services. The commissioner, pursuant to section 17b-10 of the general statutes, may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulation, provided the commissioner prints notice of intent to adopt regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted.

Sec. 3. Section 17b-342a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) [Until June 30, 2006, the] The Commissioner of Social Services shall, within available appropriations, establish and operate a state-funded pilot program to allow no more than one hundred fifty persons who are sixty-five years of age or older and meet the eligibility requirements of the Connecticut home-care program for the elderly established under section 17b-342 to receive personal care assistance [as an alternative covered service to home health services in order to avoid institutionalization, provided the average annual cost to the state per recipient of personal care assistance under the pilot program does not exceed the average annual cost to the state per recipient of home health services under the home-care program] provided such services are cost effective as determined by the Commissioner of Social Services. Persons who receive personal care assistance services

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pursuant to the pilot program established by section 47 of public act 00-2 of the June special session shall be included as participants of the pilot program established pursuant to this section. Personal care assistance under the program may be provided by nonspousal family members of the recipient of services under the program.

(b) In conducting the pilot program, the commissioner or the commissioner's agent (1) may require as a condition of participation that participants in the pilot program disclose if a personal care assistant is a nonspousal family member, (2) shall monitor the provision of services under the pilot program, and (3) shall ensure the cost-effectiveness of the pilot program.

(c) The commissioner shall establish the maximum allowable rate to be paid for such services under the pilot program and may set a separate lower rate for nonspousal family members providing services as personal care assistants in the pilot program if deemed necessary by the commissioner to ensure cost effectiveness of the pilot program and to conduct the pilot program within available appropriations.

(d) Not later than January 1, [2006] 2007, the Commissioner of Social Services shall submit a report on the pilot program to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and human services and to the select committee of the General Assembly having cognizance of matters relating to aging. The report shall include information on the quality of services provided under the pilot program and shall be submitted in accordance with section 11-4a.

Sec. 4. Section 17b-261a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

[(a) The Commissioner of Social Services shall seek a waiver of federal law for the purpose of establishing that the penalty period

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during which an applicant for or recipient of assistance for long-term care under the Medicaid program is ineligible for Medicaid-funded services due to a transfer of assets for less than fair market value shall begin in the month the applicant is found otherwise eligible for Medicaid coverage of services rather than in the month of the transfer of assets. This section shall only apply to transfers that occur on or after the effective date of the waiver. The provisions of section 17b-8 shall apply to this section.]

[(b)] (a) Any transfer or assignment of assets resulting in the imposition of a penalty period shall be presumed to be made with the intent, on the part of the transferor or the transferee, to enable the transferor to obtain or maintain eligibility for medical assistance. This presumption may be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was not a basis for the transfer or assignment.

[(c)] (b) Any transfer or assignment of assets resulting in the establishment or imposition of a penalty period shall create a debt, as defined in section 36a-645, that shall be due and owing by the transferor or transferee to the Department of Social Services in an amount equal to the amount of the medical assistance provided to or on behalf of the transferor on or after the date of the transfer of assets, but said amount shall not exceed the fair market value of the assets at the time of transfer. The Commissioner of Social Services, the Commissioner of Administrative Services and the Attorney General shall have the power or authority to seek administrative, legal or equitable relief as provided by other statutes or by common law.

[(d)] The Commissioner of Social Services, upon the request of a nursing facility, may grant financial relief to a nursing facility if the nursing facility establishes that (1) it is experiencing severe financial hardship due to the transfer of asset penalty period beginning in the month the applicant is found otherwise eligible for Medicaid coverage

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of services rather than in the month of the transfer of assets; and (2) it has made every effort permissible under state and federal law to recover the funds that are due to it for caring for the individual. No request for financial relief may be made by a nursing facility unless the individual who is the subject of the imposition of the penalty period has resided in the nursing facility for at least ninety days with no payment having been made on the individual's behalf during that period. If the department agrees to grant financial relief to the nursing facility in the form of providing Medicaid payment to the facility, the department shall seek recoupment of said payment from the individual and the transferee by pursuing all means available to it under state and federal law.

(e) The Commissioner of Social Services may waive the imposition of a penalty period when the transferor (1) suffers from dementia at the time of application for medical assistance and cannot explain transfers that would otherwise result in the imposition of a penalty period; or (2) suffered from dementia at the time of the transfer; or (3) was exploited into making such a transfer. Waiver of the imposition of a penalty period does not prohibit the establishment of a debt in accordance with subsection (c) of this section.

(f) In reviewing transfers of assets for purposes of determining eligibility for medical assistance, the department shall consider those transfers of assets involving real property that occurred within sixty months preceding the date on which an institutionalized individual has applied for medical assistance under the Medicaid state plan, except transfers of real property that are exempt under department regulations. Transfers of assets that do not involve real property remain subject to the look-back provisions contained in federal law.

(g) The Commissioner of Social Services may establish threshold limits, which shall be the cumulative amount of transfers that may be made within any year of the look-back period without resulting in the

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imposition of a transfer of assets penalty.]

[(h)] (c) The Commissioner of Social Services, pursuant to section 17b-10, shall implement the policies and procedures necessary to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt regulations is published in the Connecticut Law Journal not later than twenty days after implementation. Such policies and procedures shall be valid until the time final regulations are effective.

Sec. 5. Section 17b-342b of the general statutes and section 47 of public act 00-2 of the June special session are repealed. (*Effective from passage*)

Approved July 6, 2005